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October 15, 2004

By Courier

Ms. Kathleen Boyce
Clerk to the Honorable Mark L. Wolf
United States District Court
Moakley U.S. Courthouse
1 Courthouse Way
Boston, MA 02210

Re: **ABC Mortgage Corporation et al., v. Scottsdale Insurance Co.**
Civ. Action No. 04-10816 MLW

Dear Ms. Boyce:

I am writing in my capacity as counsel to Scottsdale Insurance Company. This letter follows on our prior correspondence to the Court of July 15, 2004, where pursuant to Judge Wolf's order of June 25, 2004 the parties reported to the Court the status of this matter. In the July 15, 2004 letter, the parties indicated that they would again report to the Court by October 15, 2004. At the time of the July letter, you stated a report by letter would comply with the Order. Based upon that information, we hope that this update by letter will also comply. I have conferred with counsel to ABC Mortgage Corporation, and this letter represents the joint views of both Mr. Chapman and me, on behalf of each of our clients.



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This insurance coverage declaratory judgment action was stayed by the Court at the joint request of the parties for the reason that the underlying action (*Mulhern v. John G. MacLeod d/b/a ABC Mortgage Co.*, Worcester Superior Court No. 02-2218A the "Mulhern" case) was pending on appeal with the Massachusetts Supreme Judicial Court. Subsequently, the Supreme Judicial Court remanded the underlying case to Superior Court for further proceedings.

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On behalf of our respective clients Mr. Chapman and I jointly request that the current stay of proceedings remain in place pending the Superior Court addressing certain issues in the underlying Mulhern case, including the Superior Court's scheduling of oral argument on pending motions during November. The parties propose that they report back to this Court in ninety days, on December 31, 2004, or by further request of either the parties or the Court.

Thank you very much for your assistance and consideration with this matter.

Sincerely,



Stephen J. Abarbanel

sm:SJA

cc: William Chapman, Esq.

